

REMARKS

Claims 9-15 and 17 are rejected under 35 U.S.C. §112, 2nd para. Claim 9, line 3, is said to have a grammatical error, particularly "a said traverse." Applicants do not find the cited language at Claim 9 (or any other pending claim). Accordingly, no correction has been made. Claim 10 is cancelled. Claims 11 and 15 are said to lack positive antecedent basis for "the garment and undergarment." Applicants respectfully submit the Examiner meant to cite Claims 12 and 15.<sup>1</sup> Appropriate correction has been made to these claims.

Claims 8 and 17 refer to "second" and "third" lines whereas the claims from which they depend do not explicitly recite first lines. The first line has been positively recited as such in independent Claims 1 and 16, correcting the concern over Claims 8 and 17.

All of the amendments address matters of form and are entered under 37 C.F.R. 1.116(a). Accordingly, no showing under 37 C.F.R. 1.116(b) is required.

Claims 1, 4-10, 16-17, and 19 are rejected under 35 U.S.C. §103 over Buell (5,197,959) in view of Glassman (4,758,240) and Sneller (WO 93/12747). The invention rejected under this combination is a sanitary napkin having a core with discrete sites bilaterally staggered about a line of weakness in the core.

Confirming the telephonic interview with Examiner Cho, the rejection relies upon Figs. 3-4 of Glassman for its teachings of discrete sites in a core. The Examiner then applies the discrete sites of Glassman to Figs. 6, 23B, 23C, and 28 of Buell to arrive at the claimed invention.<sup>2</sup>

In the same telephonic interview, Examiner Cho twice acknowledged one seeking to draw lines of weakness between the discrete sites 17 of Glassman could find "from one to an infinite number" of lines of weakness from which to choose. However, Examiner Cho stated it would be obvious to choose the lines of weakness of the proper figures of Buell to produce Claim 1 and to again choose the lines of weakness of the proper figures of Buell to produce

<sup>1</sup> Claim 11 was cancelled by preliminary amendment.

<sup>2</sup> Sneller is relied upon for its teaching of controlled bunching. However, Sneller does not teach discrete sites comprising a line of weakness.

instant Claim 16. The motivation to do so is found in Sneller's recitation of producing controlled bunching (para. bridging pp18-19).

Applicants respectfully submit Buell '959 does not contain Figs. 23B, 23C, and that Fig. 28 is not relevant to the claimed invention. If the Examiner wishes to use Buell Figs. 1, 11-13 and 16 and selectively ignore Figs. 14, 15, and 18-19, the invention of Claim 1 having the convex upward configuration in use could result.

Applicants traverse the suggestion this combination renders the claimed invention obvious, or even produces the claimed invention at all. Assuming one:

- 1) desired Sneller's controlled bunching, and
- 2) selectively picked (and ignored) the proper figures of Buell, and
- 3) properly chose between "one and an infinite number" of Glassman's lines between the discrete sites, the claimed invention would still not result.<sup>3</sup>

The claimed invention requires a line of weakness with discrete sites bilaterally staggered thereabout. As acknowledged by Examiner Cho, one using Glassman would find its discrete sites 17 are not *staggered about* the line of weakness, but instead *would form* the line of weakness. This arrangement places the discrete sites on the line of weakness, rather than staggered about the line of weakness.

Glassman neither produces the claimed invention or its benefits. The recognition of such benefits is not found in the prior art, but rather is disclosed in the instant Specification (10:35-37).

Thus, even when one selectively picks the right embodiment of Buell, the proper line of weakness from the infinite number admittedly presented by Glassman, and uses the motivation of Sneller, the claimed invention does not result.

<sup>3</sup> Applicants respectfully submit such picking and choosing among multiple prior art embodiments is, in itself, an indicium of the unobviousness of the present invention. There is simply no teaching that would lead one of ordinary skill to select between the opposite choices presented by Buell and the infinite choices presented by Glassman.

Claims 4-10, 12-17 and 19 have all the limitations of Claims 1 and 16 and are obvious over the cited combination for the same reasons set forth above. The Examiner is respectfully requested to reconsider and allow Claims 1, 4-10, 12-17, and 19, which remain in the application.

Contrary to MPEP 201.06(b), the After-Final Amendment dated Dec. 12, 1994 has not been entered. MPEP 201.06(b) requires under 37 C.F.R. 1.62 "the Specification, claims, and drawings, and any amendments in the prior non-provisional application are used in the continuation ... application" (emphasis added). MPEP 201.06(b) further notes the original disclosure of the 37 C.F.R. 1.62 application are those amendments previously entered and that the filing fee is based upon those amendments whose entry has been requested. But, the application is based on "any amendments" - not just those which the Examiners may choose to enter.


Accordingly, the Examiner is respectfully requested to comply with MPEP 201.06(b) and enter the previous amendments and make the subject Office Action non-final.

It is believed, however, that the issue regarding the entry of the previous amendments is moot. Applicants have cancelled and/or amended the claims to cure the §112 rejections. Even making the mosaic choices suggested in the Office Action does not produce the claimed invention having the discrete sites *bilaterally staggered about* the line of weakness, or produce the benefits as recited in the instant Specification (10:35-37).

This application is believed to now be in condition for allowance. An early Notice of Allowance is respectfully solicited.

Respectfully submitted,

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